

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
CINCINNATI DIVISION

HUNTER DOSTER, *et al.*,

Plaintiffs,

v.

FRANK KENDALL, *et al.*,

Defendants.

No. 1:22-cv-00084  
Hon. Matthew W. McFarland

**DEFENDANTS' NOTICE OF FURTHER IMPLEMENTATION OF THE  
RESCISSION OF DOD COVID-19 VACCINATION REQUIREMENT**

Defendants file this notice to inform the Court of further developments related to Defendants' implementation of the Secretary of Defense's January 10, 2023 memorandum rescinding his August 24, 2021 memorandum which required COVID-19 vaccination, and rescinding his November 30, 2021 memorandum which required COVID-19 vaccination for members of the National Guard and the Ready Reserve.

Defendants first file this notice to inform the Court that on January 23, 2023, the Secretary of the Air Force issued a memorandum rescinding his own memorandum dated September 3, 2021, which required COVID-19 vaccination for individuals serving in the Department of the Air Force. See 1/23/2023 SAF Memo ("AF Rescission Memo") (attached as Ex. 1). The Secretary of the Air Force's December 7, 2021, memorandum titled "Sup-

plemental Coronavirus Disease 2019 Vaccination Policy” which provided specific guidance regarding members of the Air Force Reserve and the Air National Guard previously expired by its own terms after one year, on December 7, 2022. *See* 12/7/2021 SAF Memo, available at: <https://perma.cc/72K5-SN8E> (“This Memorandum becomes void one-year after date of issuance.”).

Defendants also wish to notify the Court that on January 30, 2023, the Under Secretary of Defense issued a memorandum titled “Consolidated Department of Defense Coronavirus Disease 2019 Force Health Protection Guidance – Revision 4.” 1/30/2023 Force Health Protection Guidance, Rev. 4 (attached as Ex. 2). This memorandum updated the Consolidated DoD Coronavirus Disease 2019 Force Health Protection Guidance. Consolidated DoD FHPG, (current as of Jan. 30, 2023) (attached as Ex. 3). Among other things, the updated guidance rescinds the provision that previously limited travel for those not fully vaccinated to “mission-critical official travel.” *Id.* at 47–48. The new travel policies do not distinguish between those fully vaccinated against COVID-19 and those who are not.

Defendants are conferring with Plaintiffs regarding these latest developments.

Dated: January 31, 2023

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

On January 31, 2023, I electronically submitted the foregoing document using the Court's electronic case filing system. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Zachary A. Avallone  
Zachary A. Avallone  
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U.S. Department of Justice